

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
: 19-cr-354 (JSR)
-v- :
:
CHRISTIAN NIEVES, : ORDER
a/k/a "Eric Rosario" and :
:
ELIAS POLANCO, :
:
Defendants. :
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JED S. RAKOFF, U.S.D.J.

On March 5, 2021, defendant Christian Nieves moved to adjourn the trial set for April 14, 2021 because of the coronavirus or, in the alternative, to release Nieves on home confinement to enable him to prepare for trial. Dkt. No. 56. In an Order dated March 15, 2021, the Court denied the first prong of that motion and reaffirmed the April 14 trial date. Dkt. No. 59. In an Order dated March 25, 2021, the Court denied the second prong of that motion without prejudice to renewal, Dkt. No. 64, but explained that:

I want to be assured that he will be available to his counsel for lengthy in-person visits during the week before trial and lengthy telephonic visits starting forthwith. So I will ask the government to jointly with defense counsel contact the warden, see if that can all be arranged consistent with their present protocols, and if it can't, I'll release him.

Transcript dated March 25, 2021, at 7:10-16.

At the Court's suggestion, the parties communicated with the Associate Warden of the Metropolitan Detention Center (the "MDC"), where Nieves is detained. The Associate Warden advised that Nieves, who is currently in quarantine following his in-person court appearance last week, would be allowed daily, three-hour, in-person meetings beginning on or about April 7, 2021. See Letter from the Government to the Court dated March 30, 2021 ("Gov. Letter"), Dkt. No. 70, at 1. The MDC declined, however, to make any special accommodations to facilitate telephone calls beyond the centralized system through which counsel calls for inmates are typically scheduled. Id.

Unsatisfied with this arrangement, Nieves' counsel filed a proposed order that would require the MDC to provide Nieves "with at least three teleconferences with his legal team lasting two hours each between March 31, 2021 and April 7, 2021 at times and dates scheduled in advance with counsel" and "at least three in-person legal visits with defense counsel and/or other members of his legal team between April 7 and April 14, 2021, with each meeting lasting three hours apiece at times and dates scheduled in advance with counsel." Dkt. No. 68.

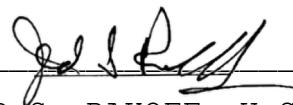
In a letter filed this morning, the Government, which objects to the entry of the proposed order, provided the Court with two additional updates. First, the Government represents that Nieves'

counsel has apparently reserved two hours of telephone time every weekday from March 31, 2021 to April 7, 2021. See Gov. Letter at 1. Second, the Government explained that the MDC has advised the Government that, upon further review of its policies, Nieves is eligible for in-person legal visits starting today. Id.

Under these circumstances, the Court sees no need to adopt Nieves' proposed order. Therefore, the defense's motion for entry of that proposed order is denied -- although, once again, the denial is without prejudice to renewal should counsel for Nieves struggle to secure the telephonic and in-person visits that have now been made available to them. The Clerk of the Court is directed to close the entry at docket number 68.

SO ORDERED.

Dated: New York, NY
March 30, 2021



JED S. RAKOFF, U.S.D.J.